

**THE COUNCIL OF ORGANIZATIONAL REPRESENTATIVES**  
ON NATIONAL ISSUES CONCERNING PEOPLE WHO ARE DEAF OR HARD OF HEARING

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September 14, 1998

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: In the Matter of Telecommunications Relay Services  
and Speech-to-Speech for Individuals with Hearing and  
Speech Disabilities, CC Dkt. No. 98-67

Dear Ms. Salas:

Enclosed please find one original and six copies of reply comments filed by the Council of Organizational Representatives on National Issues Concerning People who are Deaf and Hard of Hearing.

Sincerely,

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

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In the Matter of

Telecommunications Relay Services  
and Speech-to-Speech Services for  
Individuals with Hearing and Speech  
Disabilities

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CC Docket No. 98-67

**REPLY COMMENTS OF  
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PEOPLE WHO ARE DEAF OR HARD OF HEARING**

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## SUMMARY

The Council of Organizational Representatives on National Issues Concerning People who are Deaf or Hard of Hearing (COR) urges the Federal Communications Commission to revise its rules on telecommunications relay services in a manner that will ensure high quality services that are functional equivalent to conventional voice services. To this end, we support the Commission's decision to permit the recovery of costs associated with speech-to-speech relay services, video relay interpreting, and multilingual relay services. We applaud the Commission's decision to provide speech-to-speech relay services within two years, and request that the FCC issue a further notice of proposed rulemaking on VRI in order to gather additional information on the feasibility of requiring this as a national relay service. We also support the FCC's proposals to require the transfer of information about a caller's ANI to a 911 operator, to improve its speed of answer rules, to improve its enforcement measures, and to limit in-call CA replacements.

We urge the Commission to create a national advisory committee for the purpose of conducting a national discussion on new technologies and TTY protocols, TRS outreach measures, and CA quality standards. We also urge the Commission to adopt existing technical solutions to capture information provided on voice menu-driven telephone systems, to impose minimum typing speed and other improved CA standards, and to permit the information in caller profiles to be passed on to subsequent state relay providers. The measures that we are now proposing will be necessary for the industry and consumers to keep abreast of new developments in our nation's telecommunications infrastructure.

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**REPLY COMMENTS OF  
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**I. Introduction**

The Council of Organizational Representatives on National Issues Concerning People who are Deaf or Hard of Hearing (COR) submits these comments in response to the Federal Communications Commission's (FCC or Commission) Notice of Proposed Rulemaking (NPRM) to improve our nation's telecommunications relay services (TRS).<sup>1</sup> COR is a coalition of national organizations that are committed to improving the lives of individuals who are deaf or hard of hearing. Constituencies of COR organizations provide a variety of services, including technological and telecommunications services, educational programs, social and rehabilitation

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<sup>1</sup> The following members of COR support these comments: American Academy of Audiology, American Academy of Otolaryngology-Head and Neck Surgery, American Society for Deaf Children, American Speech-Language-Hearing Association, Conference of American Instructors for the Deaf, League for the Hard of Hearing, National Association of the Deaf, Registry of Interpreters for the Deaf, Self Help for Hard of Hearing People, Inc., and Telecommunications for the Deaf, Inc.

services, support groups and self-help programs, medical, audiological, and speech-language pathology assessment and rehabilitation services, information on assistive devices and technology, and general information on other services for deaf and hard of hearing consumers. Among other things, COR serves as a bridge among interested organizations, the general public, and the community of people with disabilities on matters concerning deaf and hard of hearing individuals.

COR's members have been active participants in the FCC's prior proceedings on TRS, and joined together to submit comments in the FCC's most recent Notice of Inquiry on this subject.<sup>2</sup> At that time, COR joined the many organizations and consumers who pointed to the need for bringing relay services closer to the functionally equivalent standard set by Congress in Title IV of the Americans with Disabilities Act (ADA). The membership of many of COR's organizations rely on TRS for basic telephone access - for their employment, their recreation, their medical needs, or their contacts with family, friends, and colleagues. While implementation of nationwide relay services over the past five years has significantly increased the independence of deaf, hard of hearing, and speech disabled persons - individuals who previously were required to rely on others to make their calls - it is questionable whether the FCC's relay performance and technical standards have been sufficient to truly provide telephone services which are functionally equivalent to the services available to the rest of the population. Slow and inaccurate typing by communications assistants (CAs), long periods of waiting for TRS while in queue, and the lack of access to voice menu driven telephone systems have been among the difficulties that have contributed to inferior relay services. Additionally, although some of the states have engaged in

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<sup>2</sup> Telecommunications Relay Services, the Americans with Disabilities Act of 1990, and the Telecommunications Act of 1996, *Notice of Inquiry*, CC Dkt. No. 90-571, 12 FCC Rcd 1152 (1997).

outreach efforts, any poll of the population at large would quickly reveal that although relay services have been required for five years (and actually provided by many states long before that<sup>3</sup>), relay services remain largely unknown to the general population.

We wish to thank the FCC for issuing this NPRM, and believe that many of the Commission's proposals will in fact bring about substantial improvements in relay services. But we urge the FCC to go much further by implementing the proposals which we set forth in these comments. We believe that the measures that we propose will be necessary to keep abreast of new developments in our nation's ever-changing telecommunications infrastructure.

## II. National Advisory Committee

The various comments to the FCC's NPRM reveal with alarming clarity the number of TRS issues which still need resolution. A national discussion needs to take place concerning the consideration and implementation of new technologies and TTY protocols, existing and proposed outreach measures, and minimum standards for CAs.<sup>4</sup> Consumers have consistently urged the Commission to establish - whether on a temporary or permanent basis - an advisory committee that could be dedicated to the review and resolution of these pressing issues. COR joins the many organizations that again urge the FCC to establish an advisory forum for this purpose. See e.g., National Association of the Deaf /Consumer Action Network (NAD/CAN) Comments at 27-28;

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<sup>3</sup> See National Association of the Deaf and Consumer Action Network Comments at 16, n.22, citing to the Summary of State Dual Party Relay Services (National Center for Law and Deafness, July 1989), which noted that the first state relay program began in 1987, and that sixteen additional states had state relay programs before the introduction of the ADA.

<sup>4</sup> The FCC has tentatively declined to propose a minimum typing speed for CAs. It is not clear, however, whether, before taking this action, the FCC took into consideration the varying typing speeds required across the United States. Complete information on this matter is needed to make a sound judgment about the need for a national standard. The same can be said about the speed of answer requirements, which similarly vary from state to state.

Telecommunications for the Deaf, Inc. (TDI) Comments at 20. Not only consumers, but the Commission as well will stand to gain so very much if the knowledge and experiences of the various state relay programs and the consumers served by those programs are shared in a national forum.

In this regard, we point the Commission to Congressional guidance on this issue:

[G]iven the unique and specialized needs of the population that will be utilizing telecommunications relay services, the FCC should pay particular attention to input from representatives of the hearing and speech impaired community. It is recommended that this input be obtained in a formal manner such as through an advisory committee that would represent not only telecommunications relay service consumers but also carriers and other interested parties.<sup>5</sup>

We urge the Commission to address relay issues on a national basis through the creation of an advisory committee made up of TRS consumers, and representatives from telecommunications companies, TRS providers, state regulatory bodies, state TRS advisory bodies, and the FCC.

### III. Improved Relay Services

We join the many parties to this proceeding that support the FCC's decision to re-define TRS in a manner that does not limit these services to voice-TTY communications. See e.g., Self Help for Hard of Hearing Persons, Inc. (SHHH) Comments at 2; Sprint Comments at 4; TDI Comments at 4; NAD/CAN Comments at 3; Ultratec Comments at 4. By defining TRS as "any wire or radio communication service that enables persons with hearing or speech disabilities to

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<sup>5</sup> S. Rep. No. 116, 101<sup>st</sup> Cong., 1<sup>st</sup> Sess. 79 at 81 (1989).



engage in communication with persons without such disabilities. . .” NPRM ¶14, the FCC will ensure that revisions to our nation’s TRS will come about as new telecommunications technologies are developed and deployed.

Accordingly, we strongly endorse the Commission’s proposal to allow the recovery of the costs associated with providing “improved” relay services, such as speech-to-speech, video relay interpreting, and multilingual interpreting. We do have some concerns, however, as to how newer relay services and technologies will be able achieve “improved TRS” status; under the FCC’s current proposals it is this status which will be necessary to obtain recovery for the costs of providing such advanced offerings. Indeed, we agree with Sprint that the Commission’s regulation of TRS must “be broad enough to encompass the non-TTY-based services currently being offered in the market as well as services using even newer and more advanced technologies that may be deployed in the future.” Sprint Comments at 4. Toward this end, we support the suggestion of the Public Utility Commission of Texas (Texas PUC) for a time limit on FCC determinations as to whether a service is an “improved” TRS service entitled to TRS reimbursement. Texas PUC Comments at 3; see also TDI Comments at 4. The Texas PUC expressed concerns about regulatory delays that will hinder the application of rapidly evolving technologies which are needed to improve TRS. It has proposed that the Commission issue determinations on requests for “improved TRS” status within approximately three months. We agree that a reasonable time limit for this purpose is appropriate. In those instances where the FCC feels that it cannot unilaterally rule on an “improved TRS” request because of its impact on the community and/or telecommunications providers, we urge the Commission to set up a

mechanism whereby it can initiate an expedited rulemaking proceeding, within three months of such a request.

**A. Speech-to-Speech Relay Services**

COR supports the Commission's proposal to require speech-to-speech relay services (STS) within two years of its final rule in this proceeding. NPRM ¶23. Indeed, both consumers and industry alike have joined in applauding this Commission proposal to expand TRS in a manner that will more effectively reach individuals with speech disabilities. See e.g., Sprint Comments at 3; American Speech-Language-Hearing Association (ASHA) Comments at 1; President's Committee on Employment of People with Disabilities (PCEPD) Comments at 6; GTE Comments at 3; Ameritech Comments at 3; TDI Comments at 6; NAD/CAN Comments at 4. Many of those commenting on the Commission's proposal to mandate STS have pointed to the need to relax or modify certain of the Commission's existing TRS standards for STS. These groups have noted the differences in STS relay and most notably have raised concerns about standards affecting the time permitted for the set-up of STS calls, verbatim relaying requirements, and confidentiality mandates that may not be appropriate for these calls. See e.g., ASHA Comments; Massachusetts Assistive Technology Partnership (MATP) Comments at 2; Bob Segalman Comments. It would appear from these comments that in fact some of the existing minimum standards employed for TTY-to-voice relay may need to be modified for STS to be truly effective. We urge the FCC to thoroughly review the proposals put forth by experts in this area in an effort to promulgate rules that will be responsive to the special needs of STS users. Additionally, we urge the promulgation of FCC rules that will require significant outreach efforts to potential users of STS, as well as rules that will allow the recovery of costs for such outreach

efforts. See United Cerebral Palsy Associations Comments at 2; Bob Segalman Comments; Report of the Deaf and Disabled Telecommunications Program (DDTP), attached to the California PUC Comments at 4; PCEPD Comments at 7.

We oppose, however, any permanent relaxing of rules which affect the *quality* of STS. We agree with the proposal set forth in the DDTP Report to allow states to have a six month period of adjustment, during which time they may fully assess call volumes and traffic patterns; after that time, these states should be able to provide STS services which meet the FCC's service quality standards. We point to the experience of the state of California in this regard:

California conducted two trials of STS before the service was offered on a provisional basis, as is now the status. No ASA or blockage requirements or strict operator training requirements were mandated during the trial periods while both the DDTP and the provider collected call statistics and gained experience with the service. Now that the DDTP is purchasing STS, even on a provisional basis, under the same contract as our conventional TRS service, identical service quality standards are in place for both services and the provider is able to meet these standards.

DDTP Comments at 3.

#### B. Video Relay Interpreting

We also support the FCC's tentative proposal to classify VRI as a relay service, and to permit reimbursement of VRI costs from intrastate and interstate jurisdictions. NPRM ¶15. Various parties to this proceeding and the FCC's NOI proceeding have acknowledged the benefits of VRI. For deaf children and adults whose primary language is American Sign Language, VRI can offer relay services that are truly functionally equivalent to conventional telephone services. The NAD/CAN has pointed out that "VRI more closely approximates direct telephone conversation, in that it allows the parties to a call to witness the expression of emotions, enables interruptions, permits individuals to use their first language (ASL), and facilitates the completion

of calls that use voice driven menu systems.” NAD/CAN Comments at 5; see also TDI Comments at 7; Northern Virginia Resource Center for Deaf and Hard of Hearing Persons (NVRC) Comments at 1-2.

COR urges the FCC to issue a further notice of proposed rulemaking to gather additional information on VRI. Commenters to this proceeding raised a number of matters which need to be answered to successfully phase in VRI, including questions about the appropriate speed of VRI transmissions, VRI interpreter qualifications and availability, and appropriate VRI performance standards. The answers to these and other questions are needed if the FCC is to effectively implement a mandate for VRI.

In the interim, we strongly urge that where VRI is provided, certain standards be in place conditioning the recovery of costs for these services. Specifically, we support the Commission’s proposals (1) to apply the U.S. Department of Justice definition of “qualified interpreter” to VRI, and (2) to apply the FCC’s existing TRS rules on confidentiality, conversation content, and type of call to VRI.

### C. Multilingual Relay Services and Translation Services

We support the FCC’s proposal to classify multilingual relay services (MRS) as an improved relay service, the costs of which will be recoverable on an intrastate and interstate basis. NPRM ¶38. We agree with the Texas Public Utilities Commission (Texas PUC), the DDTP and the NAD/CAN that such services should be more broadly defined, to include not only same-language MRS, but, foreign language translation that is disability related. See Texas PUC Comments at 9; NAD/CAN Comments at 9. DDTP explains that “[d]eaf people born into Spanish-speaking families do not learn written or spoken Spanish. They learn ASL as their first

language (visual) and English later in school as their second language (written). . . . The result is the child speaks a different language than the parents because the child is deaf.” DDTP Comments at 6. In these situations, translation services should be reimbursable because they would be disability related. In the case of both same-language MRS and translation MRS, however, we agree with others that each state should decide for itself whether or not to offer these types of relay services. SHHH Comments at 4; DDTP Comments at 5; TDI Comments at 9.

ASL translation services, which allow CAs to translate ASL - to the extent it can be typewritten - to English, has already been provided in many parts of the country, and should continue to be a reimbursable relay expense.<sup>6</sup>

#### IV. Access to Emergency Services

We strongly support the Commission’s proposal to mandate TRS centers to pass a caller’s ANI to a 911 operator, where the relay call is an emergency. We agree with other parties who have said that a CA should not take it upon his or herself to determine whether an emergency exists, however. Bell Atlantic Comments at 5; Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell Comments at 6. As noted by the Kansas Relay Service, Inc. (KRSI), “[a] TRS center should not be placed in the position of screening or determining the existence or extent of a claimed emergency.” KRSI Comments at 6. Where a caller makes clear that an emergency exists or specifically requests 911 services, however, CAs should be required to pass on the ANI to the 911 dispatcher. In a life and death situation, the speed with which this is performed will be critical. Thus, the manner in which the ANI is ascertained (i.e., via the network

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<sup>6</sup> The NAD and CAN note that the FCC’s rules already permit this type of translation service, and that one relay provider regularly offers this type of service to its customers in their caller profiles. NAD/CAN Comments at 9-10, citing to MCI Relayer (Summer 1997).

or directly from the caller) and passed on (i.e., through the network or orally from the CA to the 911 operator) will be critical in terms of properly responding to the emergency. Where technically feasible, network based solutions would appear to be the most efficient means of acquiring and passing on this type of information.

#### V. Voice-Menu Driven Systems and Other Audiotext Services

The vast majority of consumers commenting on the FCC's NPRM expressed frustrations with the failure of TRS to effectively complete voice menu-driven telephone services. See e.g., MATP Comments at 4; PCEPD Comments at 9; Maryland Department of Budget and Management (Maryland Dept.) Comments at 7; Association of Tech Act Projects Comments at 3. As noted by SHHH, not being able to navigate these services, given their proliferation, "creates significant barriers to telecommunications for people with hearing loss." SHHH Comments at 5. Access to these telephone services are needed for equal employment and educational opportunities, retrieval of information from various recreation and transportation facilities, and access to a multitude of governmental services. Thus, SHHH and others are correct in concluding that access to these interactive services is essential to achieving functional equivalence.

Several parties to this proceeding have proposed an interim solution which would permit the recording of messages from voice-menu driven systems. This method, apparently already employed in some states, uses a digital recording which captures the entire audiotext message on tape. With the recording, the CA is able to control the speed at which the message is relayed to the TRS consumer, and can then obtain the prompts needed to call back the audiotext number. See Texas PUC Comments at 11; DDTP Comments at 8; MATP Comments at 4; Steve Gregory Comments at 11-12.

Although not fully equivalent to voice access, the above solution of electronically recording messages contained on menu-driven systems offers an improvement to the virtual lack of access that now exists with respect to these systems. Because this is technically feasible, and requires only the minimal expense of purchasing recording equipment, we urge the FCC to issue a rule requiring the capturing of audiotext messages in this manner.

The FCC states that it is not authorized to require access to audiotext services. NPRM ¶45. However, various commenters to this proceeding have quoted a passage from the legislative history of the ADA which provides the Commission with the jurisdiction needed to mandate these services where technologically possible. See e.g., NAD/CAN Comments at 12; TDI Comments at 11, quoting a colloquy between Congressmen Hoyer and Congressman Luken on this issue.<sup>7</sup>

Sprint reports that it already provides access to 900 calls at nine of its relay centers, and notes that the use of these services is growing dramatically. Sprint Comments at 5-6. The fact that the technology already exists to provide these services provides the Commission with the authority it needs to mandate the provision of TRS access to 900 telephone services. The absence of such a mandate comes into conflict with Title IV's directive prohibiting relay providers from "failing to fulfill the obligations of common carriers by refusing calls,"<sup>8</sup> as well as the Commission's own requirement that TRS be "capable of handling any type of call normally provided by common carriers."<sup>9</sup> As noted by the NAD and CAN, "the Commission has always required that carriers bear the burden of proving the infeasibility of handling any type of call. Insofar as at least some carriers are providing access to pay-per-call services, those that are failing

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<sup>7</sup> 136 Cong. Rec. H2434 (May 17, 1990).

<sup>8</sup> 47 U.S.C. § 225(d)(1)(E).

<sup>9</sup> 47 C.F.R. §64.604(a)(3).

to do so have an obligation *under the Commission's own rules* to explain why they are unable to complete these calls.” NAD/CAN Comments at 12-13. (emphasis in original).

## VI. Mandatory Minimum Standards

### A. Speed of Answer

COR supports the FCC's proposal (1) to require TRS providers to answer 85% of all relay calls within “10 seconds *by a CA prepared to place the TRS call at that time*,” NPRM ¶ 50 (emphasis in original), and (2) to require that this calculation be performed on a daily basis. Id. This rule will reduce distortion of the actual TRS blockage rates, and eliminate waiting in queue for long periods of time. We agree with others, however, that the FCC should continue to monitor the blockage rates of TRS calls, to determine whether the new calculations are effective in reducing these rates. See e.g., NAD/CAN Comments at 15. Many parties to this proceeding have recommended even shorter speeds of answer. Should the new requirements be insufficient, we urge the FCC to re-open this issue and reduce even further the permitted speed of answer.

### B. Communications Assistant Quality and Training

Despite the fact that consumers have vociferously complained about the quality of TRS and the competency of CAs, the FCC has decided not to propose a minimum typing speed or any other improved CA standards. Nor does the Commission propose the adoption of, or cost recovery for, any of the new TRS technologies, such as enhanced TTY protocols, new computer software, such as auto-correct, two line VCO, caller-ID recognition, or the call-release feature. These and other new advancements could improve considerably the transmission speed of relay calls, bringing these calls closer to the standard of functional equivalency. As noted by others,



TRS is *not* a new service; the experiences of over a decade of these services emphatically call out for improved relay standards.

When the Commission issued its First Report and Order on TRS in 1991, it explained its reluctance to mandate a minimum typing speed: “[r]ather than articulate a low threshold of expectations, a safe harbor, we instead expect that TRS providers will deliver the excellent level of service all telephone consumers demand.”<sup>10</sup> It is time now to fulfill that goal. At a minimum, the Commission should require, on a national level, the highest typing speed required by any state, and should review that standard on a biennial basis. In addition, we agree with others that typing qualifications of CAs should be assessed through oral typing tests, rather than text-to-type, in order to more accurately test relay performance and spelling skills. The speed at which CAs are able to accurately and effectively type is presently linked to the extent to which a relay provider can offer functionally equivalent relay services. We are hopeful that new technologies will do even a better job of achieving real time TRS transmissions in the future. We urge the Commission not to ignore the existence of these new technologies and to mandate, or at least permit cost recovery for, the provision of these technologies where they will improve relay service quality and more closely approximate the functional equivalent standard.

## VII. Enforcement and Certification Issues

We support the Commission’s decision to require states to notify the Commission about substantive changes in their TRS programs within sixty days of making those changes. NPRM ¶75. We also strongly support the FCC’s proposal to require TRS programs to make available to

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<sup>10</sup> In the Matter of Telecommunications Services for Individuals with Hearing and Speech Disabilities and the Americans with Disabilities Act of 1990, *Report and Order and Request for Comments*, CC Dkt. No. 90-571, FCC 90-376 (July 26, 1991) ¶19.

TRS users “informational materials on state and Commission complaint procedures sufficient for users to know the proper procedures for filing complaints.” Id. In addition to these measures, we support the following measures, put forth by the NAD, CAN, and SHHH, to ensure the prompt and effective enforcement of the FCC’s mandates: (1) The FCC should require providers to file information on their complaint procedures with the FCC; the FCC should then post such information on its Disabilities Issues Task Force’s web site; (2) TRS providers and state commissions should be required to keep logs of consumer complaints, and should be required to provide these logs to the Commission upon the Commission’s request and at the time that it seeks recertification; (3) The FCC should adopt specific guidelines for the handling of relay complaints within the states. Such guidelines should require (1) that a consumer must receive an acknowledgment that his or her complaint has been received within 15 days after it has been filed, and (2) that a complaint which remains unresolved after a period of 30 days (after being filed with the relay provider) must be referred to the appropriate state forum assigned the responsibility for resolving TRS complaints. SHHH Comments at 11; NAD/CAN Comments at 23-24.

#### VIII. Other Matters

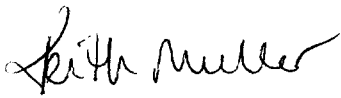
A. In Call CA Replacement - COR supports the Commission’s proposal that CAs stay on a call for at least ten minutes before an in-call CA transfer may occur. NPRM ¶62. As noted by the NAD and CAN, “this rule will eliminate much of the disruption that currently takes place when CAs change mid-call.” Comments of the NAD/CAN at 19. We further urge that if a call is about to end, CAs should not be permitted to leave a call, even if the ten minute mark has been exceeded. See e.g., SHHH Comments at 10.

B. TRS Caller Profiles - Consumers unanimously wish to have the information in their caller profiles passed on to new state relay providers. NVRC Comments at 3; Maryland Dept. Comments at 10; Texas PUC Comments at 16; USA Deaf Sports Federation Comments at 5; NAD/CAN Comments at 21-23. These profiles contain valuable information, including the caller's carrier of choice, preferred type of call (VCO/HCO), CA gender preference, mode of introduction, language type (English, ASL, or foreign language), and other relay features. We urge the Commission to allow states to provide a seamless continuation of TRS when the state changes relay providers by permitting the transfer of these caller profiles.

IX. Conclusion

COR wishes to thank the Commission for the opportunity to submit these comments. COR urges the Commission to adopt the suggestions set forth in these comments so that our nation's relay services can truly be functionally equivalent to voice telephone services.

Respectfully submitted,



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